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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,471	01/22/2004	Jerry P. Lensing	REL2004	4390

7590 10/28/2004

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EXAMINER

SHRIVER II, JAMES A

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 10/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/761,471

Applicant(s)

LENSING, JERRY P.

Examiner

J. Allen Shriver

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 12 is/are rejected.
- 7) ☒ Claim(s) 8-11 and 13-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/22/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on January 22, 2004 has been considered by the examiner.

Drawings

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings are informal. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1-7 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Eckstrum (US Patent 5,472,219).** Eckstrum discloses a wheeled creeper (10) for use on support surface, the wheeled creeper comprising a frame (11); a platform (12) releasably

Art Unit: 3618

mounted on said frame; a plurality of swivelable casters (13) supporting the frame; and brake means (15,18) for releasably engaging the support surface and for deterring rolling movement of the creeper; **[claim 2]** wherein said brake means comprises a braking device movable between an engaged position and a disengaged position; when said braking device is in said engaged position the creeper is deterred from rolling movement (See Fig. 4); and when said braking device is in said disengaged position the creeper is free to roll on the support surface (See Fig. 3); **[claim 3]** wherein said braking device comprises at least one brake shoe (15) and actuating means (18) for moving the brake shoe between the engaged and disengaged positions; **[claim 4]** wherein said at least one brake shoe comprises an elongated member (38) and at least one brake pad (34) disposed on the elongated member; **[claim 5]** wherein said at least one brake shoe comprises a first and second brake shoe (See Fig. 4 and column 6, line 1+); **[claim 6]** wherein said at least one brake shoe includes a brake pad for engaging the support surface; when said braking device is in said engaged position said at least one brake shoe is lowered with the brake pad directed away from the platform, the brake engages the support surface, and the creeper is deterred from rolling (See Fig. 4); and when said braking device is in said disengaged position said at least one brake shoe is raised with the brake pad positioned away from the support surface and said creeper is allowed to roll freely (See Fig. 3); **[claim 7]** wherein said braking device comprises a first and second brake shoe (See Fig. 4); and a linkage (14,19) that moves the brake shoes between the engaged and disengaged positions comprise a linkage.

Allowable Subject Matter

5. Claims 8-11 and 13-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claim 19 is allowed over the prior art.

Conclusion

7. The prior art made of record in the accompanying PTO Form 892 and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

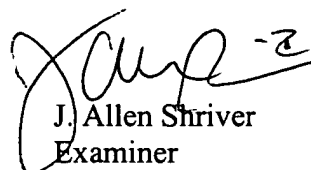
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris P. Ellis can be reached on (703) 305-0168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/761,471

Art Unit: 3618

Page 5

-2

J. Allen Shriver
Examiner
Art Unit 3618

10/25/04

JAS